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Re: Appeal to the School Board of the School District of Whitefish Bay of complaints filed on September 30, 2023 and November 2, 2023.

The School Board for the School District of Whitefish Bay (“School Board”) convened in an open meeting on February 5, 2024 and then went into closed session to hear the appeal of Ms. Shaneeka White of the decision by Dr. John Thomsen, District Administrator, of complaints lodged with the District on September 30, 2023 and November 2, 2023.

Consistent with Policy 411 of the School District of Whitefish Bay, the School Board heard the appeal of Ms. White (the “Complainant”), who was represented by counsel, Attorney Lambert. Members of the School Board were given the following documents to review in conjunction with the appeal:

November 1, 2023 update to Board from Attorney Lambert/Ms. White

Letter dated November 12, 2023 authored by Attorney Lambert and Exs. A & B

Letter dated November 15, 2023 authored by Mr. Lemke

Video from December 11, 2023 meeting

Folder of exhibits from Attorney Lambert for December 11 meeting

Letter dated December 15, 2023 authored by Dr. Thomsen

Video from January 4 meeting

Letter dated January 12, 2024 authored by Dr. Thomsen

Letter dated January 19, 2024 authored by Attorney Lambert and Exs. A-J

Statement presented by Ms. White on February 5

Statement presented by student on February 5

American Psychological Association Article

At the hearing, counsel for the Complainant, the Complainant, and the student involved spoke to the School Board for a prescribed period. Dr. Thomsen then provided comments to the School Board. Response periods were provided for both, and the last comments were presented by counsel for the Complainant. Following the hearing, the School Board deliberated. In its decision of the appeal, the School Board states as follows:

I. Complainant's complaint dated September 30, 2023 of racial harassment

From the information provided to the School Board, it is not possible to determine who started or continued the incident that involved the student of Complainant and other District students. This situation is regrettable.

From the information provided by the Complainant and the District, it can be concluded that the incident of September 29, 2023 was a single incident. That is, there was not information provided to the Board that there were a series of incidents involving these students that preceded or continued after the September 29, 2023 incident.

Counsel for the Complaint told the School Board that the reason for the encounter between the students was not a racial one. Rather, that reason involved a girl and the Homecoming dance.

However, during the student's encounter, it is possible that there was a racial statement made and directed towards Complainant's student.

The School Board concludes that the students' statements during the encounter were contrary to the requirement of Policy 410, which requires in relevant part that all students be treated with human dignity.

The School Board concludes that the District needed to act more promptly in its written response to the complaints filed by Complainant.

The School Board has considered the definition in Policy 411 related to racial harassment. That definition states, in part, that harassment occurs where there is "severe, systematic or repeated actions that involve the threatened, attempted, or actual infliction of physical harm or psychological/emotional distress on one or more students."

Given that, among other reasons, the encounter was a single one and that the encounter was started for a reason that did not involve race, the School Board concludes that—while it is possible there was a racial statement—it was not racial harassment as defined under Policy 411.

The School Board requests that the District continue to adjust its policies and training to ensure that the time-frames in Policy 411 have been complied with in a prompt manner.

II. Complainant's complaint of November 2, 2023 of sexual harassment

The School Board heard that the complained-of comments directed towards Complainant's student have had an effect on Complainant's student. This situation is concerning.

From the information provided to the School Board by Complainant and by the District, the School Board concludes that the comments directed towards Complainant's student occurred on social media; involved social media that was not conducted using District computers or other District technology; and involved social media activity that occurred outside the school day.

Therefore, the School Board concludes that the complained-of activity occurred outside of a school program or activity.

The School Board, while concerned for Complainant's student, does not find that Complainant's student has been denied equal access to a school program or activity, particularly as meant in Title IX, as a result of the complained-of activity.

For these reasons, the School Board does not find that its sexual harassment policy, Policy 411, is applicable to the complained-of actions in this Complaint.

However, the School Board notes that there are counseling services at each school in the District that can be a resource to assist students who are working through challenges that occur outside of a school program or activity.

The School Board requests that the District do the following:

1. Continue District efforts to inform the student directing comments towards Complainant's student that she is not permitted on high school property without a school-activity-based reason. And, under circumstances where she—the student directing comments to Complainant's student—is on high-school property without a school-activity-based reason and, where it is possible, direct her off high-school property,
2. Continue informational efforts by the District to inform students at all school levels that students should not be loitering on school property after the school day without a school-activity-based reason.

So it is decided by the School Board of the School District of Whitefish Bay (Board Member Lynn Raines was not part of this decision).

Dated: February 20, 2024.